

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: OCT 20 1989

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(7) of the Internal Revenue Code.

The evidence presented indicates that your organization, was incorporated in the State of [REDACTED] on [REDACTED].

Your purposes as stated in your Certificate of Incorporation, are athletic, to promote and encourage interest in bicycle riding, training and road racing.

To purchase, lease or otherwise acquire, and hold, own, use, operate and sell or otherwise dispose of real and personal property including, but not limited to, bicycle and related athletic equipment, and such other real or personal property or other facilities as may be required for the use of its members.

To do any other act or thing incidental to or connected with the foregoing objects or in advancement thereof, but not for profit.

In addition your application states that you were formed to enable any interested persons to support and engage in bicycle racing. Your bicycle races are promoted for the purpose of conducting fund raising and contributions are accepted from local businesses in return for displaying their logo on your race clothing.

Your organization's proposed financial statements for the years ending [REDACTED], [REDACTED] and [REDACTED], indicate that over [REDACTED]% of your gross income will be received from contributions.

On [REDACTED], our Brooklyn office wrote to your organization asking for additional information regarding your request for IRC 501(c)(7) status. Your organization responded in a letter dated [REDACTED] that bicycle riders join your club to learn to race and train efficiently and safely and to promote the sport. You have races once every two weeks during the summer and get together about once a week for social gatherings. The information submitted also indicates that five local businesses pay \$[REDACTED] a year in return for displaying their logo on your race clothing and that three national companies supply racing equipment in return for display of their logo. This support accounts for approximately [REDACTED]% of your of your yearly budget.

The above financial support is reflected on your organization's annual budgets as contributions.

Section 501(c)(7) of the Code provides exemption to clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

Public Law 94-568 amended IRC 501 to reflect a twofold change under IRC 501(c)(7). First, it makes it clear that a social club may receive some investment income without losing its exempt status. Second, it permits a higher level of income from nonmember use of club facilities than was previously allowed.

In addition, Public Law 94-568 defines gross receipts as those receipts from normal and usual activities of a club including charges, admissions, membership fees, dues, assessments, investment income, and normal recurring capital gains on investments, but excluding initiation fees and capital contributions. Public Law 94-568 also states that it is intended that social clubs should be permitted to receive up to 35 percent of their gross receipts, including investment income, from sources outside of their membership without losing their exempt status. Within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of the social club's facilities or services by the general public. Thus a social club may receive investment income up to the full 35 percent amount of gross receipts. If a club receives unusual amounts of income, such as from the sale of its clubhouse or similar facility, that income is not to be included in the 35 percent formula; that is, unusual income is not to be included in the gross receipts of the club.

Revenue Ruling 58-589, 1985-2 C.B. 256 lists criteria or tests for determining whether an organization qualifies for exemption from Federal Income Tax under IRC section 501(c)(7). The Revenue Ruling states in part "An organization must establish that it is a club both organized and operated exclusively for pleasure, recreation and other nonprofitable purposes and that no part of its net earning inures to the benefit of any private shareholder or individual." In order to meet the first requirement, there must be an established membership of individuals, personal contacts and fellowship. In order to meet the second requirement, a social club should not engage in any type of business activity for profit which is designed to increase or which could result in an increase in net earnings inuring to the benefit of any individual.

Net earnings may inure to members in such forms as an increase in services offered by the club without a corresponding increase in dues or as an increase in the club's assets which would be distributable to members upon dissolution of the club.

While your organization meets the first requirement of Revenue Ruling 58-589, you do not meet the second requirement. The amounts that your organization anticipates receiving as contributions and that are used to cover team expenses and supply equipment constitutes inurement. The income that your organization would receive from contributions both increases the services offerered by your club without a corresponding increase in dues and increases the club's assets which would be distributable to members upon the dissolution of the club.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(7) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,

A solid black rectangular box used to redact the signature of the District Director.

District Director

Enclosure: Publication 892